

GOVERNMENT OF ANDHRA PRADESH  
A B S T R A C T

School Education Department - Judgment of the High Court in W.P.No. 8399/2006 dt. 17-07-2008 filed by Secretary & Correspondent Sri Sarada Vidya Nilayam Primary & High School, Ayodhyanager, Vijayawada represented by its Secretary - Absorption of staff in aided posts- rejected - Orders - Issued.

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EDUCATION (SE PS.II) DEPARTMENT

G.O.Rt. No. 839

Dated: 19-11-2008

Read the following:-

1. Orders of the Hon'ble High Court dated: 17-07-2008 in W.P. No. 8399/2006.
  2. Govt. Memo. No. 4492/SE PS.II/A1/2008, dt. 08-08-2008.
  3. Orders of Hon'ble High Court dated: 11-08-2008 in W.P Nos. 8399/2006 and 4599/2008.
  4. From the DSE, Hyderabad Lr. No. 460/B2-2/2007, dt. 08.08.2008.
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O R D E R:-

The Hon'ble High Court in its order 1st read above directed the learned Government Pleader for School Education, High Court of AP, Hyderabad to ascertain the view of the Government, vis-à-vis the proceedings, dated: 31-03-2006, in the context of the orders in G.O.Ms. No. 71 Edn. Dated: 30-05-2008 having regard to the fact that one of the Teachers, who figured in the panel of the same school, was accorded approval in the said G.O.

2. The Hon'ble High Court in its further orders 3<sup>rd</sup> read above made the following order:

“The Government issued orders approving appointment against aided vacancies in private educational institutions. One such instance is available in the petitioner school itself.

This Court is of the view in the light of these changed circumstances that the matter needs to be given a fresh look. In case, respondents 3 and 4 need any further information or clarification, they can require the petitioner to furnish it within a stipulated time. Inasmuch as the school is imparting education in Telugu Medium and it is said to be in dearth of Teachers, the matter cannot brook any further delay.

Hence, W.P. Nos. 8399 of 2006 and 4599 of 2008 are allowed, setting aside the impugned order and directing the third respondent to pass fresh orders, in accordance with law, as it obtains now. In case, respondents 3 and 4 need any further information from the petitioner, it shall be open to them to require him to furnish it within a specified time. This exercise shall be completed within a period of two months from the date of receipt of a copy of this order. There shall be no orders as to costs”.

P.T.O.

3. Government in G.O.Ms. No. 71 Edn. Dt. 30-05-2008, based on the orders of Supreme Court of India in SLP No. 24269-24270/2000 filed by Smt. P.Thirumaladevi & others accorded orders ratifying action of 32 School Managements in appointing 44 candidates in West Godavari, Krishna, Guntur, Prakasam, Nellore and Kadapa Districts in the Interregnum period between 02-12-2002 to 18-06-2003 in the 50% unreserved vacant aided posts subject to the condition these appointments has been made duly following Rule 12 & 13 of G.O.Ms. No. 1 Edn. Dt. 01-01-1994 except Rule 12 (6) of the said rules and also direct to regularize the appointments of 43 teachers as per names shown in the Annexure to the order. As per the report submitted by the Director of School Education, Hyderabad Smt. Sameera Khan was appointed as SGT in the aided vacancy on 12-06-2003 in Sri Sarada Vidya Nilayam Primary & High School, Ayodhyanagar, Vijayawada and requested to ratify her appointment along with other 43 teachers. Accordingly her name was included in the above G.O. for regularization of her services.

4. Government have examined the matter afresh as per the Orders of Hon'ble High Court of Andhra Pradesh in terms of the orders issued in G.O.Ms. No. 71 Edn. Dt. 30-05-2008, the report of the Director of School Education in his letter 4<sup>th</sup> read above with reference to rules in force and connected records and observe that :

- a) One SGT aided post was fallen vacant from 01-07-2002 in Sree Sarada Vidyanilayam Ele. School, Ayodhyanagar, Vijayawada due to retirement of Smt. M. Parvathi Devi. The management has recruited Smt.Sameena Khan in the said aided vacancy and the incumbent joined the post on 12.06.2003.
- b) Government in G.O.Rt.No.574, Education, dated: 17.06.2004 issued orders for shifting of 10 surplus aided teaching and non-teaching posts found surplus in other institutions in Krishna District and allotted to Sree Sarada Vidya Nilayam High School, Ayodhyanagar, Vijayawada. The management sought approval of appointments 3 teaching & 3 non teaching staff in unaided posts whose selections were made by the management on its own on 10-06-2003 and absorption in Grant-In-Aid post on 27-07-2004 on its own. The appointments to the unaided posts have not been approved by competent authority.
- c) The management sought for the absorption of the unaided staff Selected by the management on 10.06.2003 into the aided posts.
- d) Government issued G.O.Ms.No.75, Education, dated: 23.09.2002 duly stating that "in future there shall not be any approval by the department for recruitment to unaided posts and hence no question of any absorption in future. The management may fill up unaided posts, if they require as per the staffing pattern and teacher pupil ratio with their own funds". As such the management has selected and appointed 3teaching staff and 3 non-teaching staff in the unaided posts without observing the A.P. Educational Institutions (Establishment, Recognition, Administration and Control of Schools under the Private Managements) Rules, 1993 issued in G.O.Ms.No.1, Education, dt: 01.01.1994 and hence, the appointments are illegal.

- e) In Govt. Memo No. 12080/COSE/A2/2004-4, dated: 20.10.2004 it was ordered that no new posts of Grant-In-Aid would be created and the existing vacant posts too are not to be filled up due to ban on recruitment. In view of the orders it is not Permissible to absorb the staff in Grant-In-Aid posts.

5. Government further observed that Smt. Sameera Khan who was appointed by the management in the vacant aided post of SGT on 12-06-2003 in Sri Sarada Vidyanilayam Primary and High School, Ayodhyanagar, Vijayawada has fulfilled all the conditions laid down as per the orders of the Hon'ble High Court in W.P. No. 1519/99 dt. 03-10-2001 and Supreme Court in the SLP Nos 24269, 24270/2000 filed by Smt. T.Thirumaladevi and orders have been issued based on the proposals of Director of School Education in relaxation of Rules in G.O.Ms. No. 71, Education dt. 30-05-2008. Therefore these two issues are different.

6. Government accordingly hereby reject the proposal for approval of appointments of 6 teaching & non-teaching staff into Grant-in-Aid posts in Sri Sarada Vidya Nilayam Primary & High School, Ayodhyanagar, Vijayawada.

7. The Director of School Education, Hyderabad is requested to take action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

K.R.KISHORE  
PRINCIPAL SECRETARY TO GOVERNMENT

To  
The Director of School Education, A.P. Hyderabad.  
Copy to:  
The Government Pleader for School Education, High Court of A.P. Hyderabad.

//FORWARDED BY ORDER//

SECTION OFFICER